IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.597 OF 1988

Suresh govind Kamath,
of Bombay Indian Inhabitant
residing at 'Gharkul' 17,
Walawalkar Wadi, Block 12,
Goregaon (East), Bombay 400 063. Petitioner

vs.

1. S. S. & L.S. Patkar
College of Arts & Science,
S.V. Road, Goregaon(W),
Bombay 400 062.

2. State of Maharashtra
through Secretary, Education
& Youth Service, Dept. Govt. of
Maharashtra, Mantralaya,
Bombay 400 032.

3. Ravindra P. Kulkarni of
Bombay Indian Inhabitant,
empoyed at S.S. & L.S.
Patkar College of Arts &
Science, S.V.Road, Goregaon
(West), Bombay 400 062. Respondents

Ms.Sushmita Burman i/b. Mr.Desai Singh Gonsalves for the petitioner.

Ms.Sonali Kunekar i/b.Mrs. M.H.Doshi for the respondent no.1.

Mr.P.G. Lad, A.G.P. for the respondent no.2.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 9th June 2005

ORAL JUDGMENT (Per R.M.Lodha,J.)

At the outset Ms.Sushmita Burman, the learned counsel for the petitioner prayed for time. The writ

petition has been pending in this Court for about 17 years and we find no justifiable ground to adjourn such old writ petition merely because prayer for adjournment is made.

2. We then perused the writ petition and the documents annexed thereto with the assistance of Mr.P.G.Lad, the learned Assistant Government Pleader. The learned counsel for the petitioner and the learned counsel for the respondent no.3 provided no assistance to us.

3. The principal grievance of the petitioner in this writ petition is for direction to the respondent no.1 viz. S.S. & L.S. Patkar College of Arts & Science to promote the petitioner to the post of Accountant/Superintendent retrospectively with effect from 01.04.1976 or any other date that the Court may think fit and for direction to the aforesaid College to place the petitioner at the proper stage in the wage scale of Rs.500-900 and pay all the attendant benefits to the petitioner.

4. The petitioner was appointed as junior clerk in the aforesaid College from 7th May, 1964. He was promoted to the post of senior clerk on 1st July, 1966. The petitioner was further promoted to the post of Head clerk with effect from 1st April, 1975.

5. According to the petitioner, the respondent no.3 was appointed as junior clerk on 20th July 1967 and wrongly designated to the post of Accountant in the month of October 1977.

6. The staffing pattern in the 1st respondent-college prior to the year 1978 was thus:

1.	Superintendent	400-625
2.	Accountant/Head Clerk	275-450
3.	Senior Clerk	165-345
4.	Junior Clerk	100-300

7. The Bhole Commission was constituted by the State Government in relation to the service conditions and wage scales for academic and non-academic college employees in the State of Maharashtra. In its report submitted by Bhole Commission in the year 1978, the pay scales were recommended for revision thus:

Sr.No.	Category	Revised Pay-scale.
1.	2.	3.
I. ADMINISTRATIVE/CLERICAL POST		Rs.
(a)	Posts at the base level (Junior Clerk and equi-valent posts.).	260-10-390-15-420 Extn. 15-495.
(b)	Posts at the first level	335-15-500-20-580-

of promotion (Senior clerk and equivalent posts)	Extn.20-680.
(c) Posts at the Second level of promotion (Head Clerk/ Assistant Superintendent and equivalent posts).	395-15-500-20-700- Extn. 20-800.
(d) Posts at third level of promotion (Superintendent and equivalent posts immediately below the 4th level wherever in existence)	500-200-700-25-900
(e) Posts at the fourth level promotion (Registrar and equivalent posts at that level wherever inexistence).	600-30-750-E.B.-40- -1-150.

II. ACCOUNTS AND CASH SECTION POSTS

(a) Posts at the base level (Accounts Clerk and equi valent posts).	260-10-390-15-420- Extn. 15-495.
(b) Posts at the first level of promotion (Junior Accountant Assistant Accountant/Senior Accountants Clerk and equivalent posts).	335-15-500-20-580 Extn. 20-680.
(c) Posts at the second level of promotion (Deputy Accountant/Joint Accountant etc. wherever in existence)	395-15-500-20-700 Extn. 20-800
(d) Posts at the third level of promotion (Accountant and equivalent posts wherever in existence).	500-20-700-25-900

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8. It appears that at the time of implementation of the Bhole Commission report, the petitioner was holding the post of Head clerk having a pay-scale of Rs.275-450. The Bhole Commission recommended the revised pay scale

of Rs.395-15-500-20-700-extn-20-800 for the post of Head Clerk. It is apparent from the available material that the petitioner was accorded revised pay scale of Rs.395-15-500-20-700-extn.-20-800. The pay scale of the respondent no.3 was revised to Rs.500-20-700-25-900 pursuant to Bhole Commission Report as he was holding the post of Accountant.

9. The principal grievance of the petitioner as reflected from the writ petition is that the respondent no.3 could not have been promoted to the post of Accountant in the year 1977 as he was junior to the petitioner. The writ petition has been filed by the petitioner in the year 1988 and, in our considered view, it was too late in the day for the petitioner to challenge the promotion of the respondent no.3 accorded in the year 1977 to the post of Accountant in the year 1988. Once it is held that it is not open to the petitioner to challenge the promotion of respondent no.3 given in the year 1977 to the post of Accountant by filing the writ petition in the year 1988, the revised pay scale that has been granted to the respondent no.3 pursuant to the Bhole Commission report cannot be faulted. The petitioner was holding the post of Head Clerk and as per the report of Bhole Commission he was given revised pay scale of Rs.395-15-500-20-700-extn.20-800. The revised pay scale

of Rs.500-20-700-25-900 could not have been given to him as he was neither holding the post of Superintendent and equivalent post immediately below the fourth level or the post of Accountant at the third level of the post. In so far as respondent no.3 is concerned, he was Accountant and was entitled to the revised pay scale for the Accountant i.e., Rs.500-20-700-25-900 and that is what was given to him.

10. Thus, we find no merit in the writ petition.

11. Writ petition is dismissed. Rule is discharged.

No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)